UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,838	04/16/2001	Mark Vange	CIRC011	4185

25235	7590	10/10/2003

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EXAMINER
JAROENCHONWANIT, BUNJOB

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.		Applicant(s)
Office Action Summary	09/835,838		VANGE, MARK
	Examiner		**Art Unit**
	Bunjob Jaroenchonwanit		2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>16 April 2001</u> .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-19</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-19</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)	4)☐ Interview Summary (PTO-413) Paper No(s). _____ .
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)	5)☐ Notice of Informal Patent Application (PTO-152)
3)☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5,6</u> .	6)☐ Other: .

DETAILED ACTION

Information Disclosure Statement

1.   The information disclosure statement filed 08/02/02 (paper no. 6) fails to comply with 37

CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication

or that portion which caused it to be listed; and all other information or that portion which caused

it to be listed. It has been placed in the application file, but the information referred to therein

has not been considered. Applicant fails to provide a copy of non-patent literatures list on page

2. Applicant is suggested to provide the non-patent literatures accompanied with a PTO 1449 for

consideration. The IDS submitted 09/25/01 (paper no.5) is duplicated and considered in paper

no. 6.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3.   Claims 1-19 are rejected under 35 U.S.C. 102(a) as being anticipated by San Andres et al

(US. 5,956,489).

4.   Claims 1, 2, 12, 13 and 19, San Andres discloses a system for load balancing in a

network environment comprising:

a plurality of servers coupled to a network (servers 120, Fig. 1);

a set of network resources associated with each of the servers, wherein at least some of the network resources are redundant (abstract, Col. 6, lines 22-31; Col. 15, lines 37-46);

a client coupled to the network and generating a request specifying some of the redundant resources (Clients 102, Fig. 1; Col. 8, lines 4-12)

a gateway machine coupled to the network in communication with the client, the gateway machine configured to receive the request from the client (gateway 126, Fig. 1; Col. 5, lines 40-55), select from amongst the servers that are associated with the request-specified redundant services, establish a communication channel with the selected server, and access the specified server to service the received client request (Col. 8, lines 4-35); and

means coupled to the gateway machine for selecting amongst servers of redundant resources a particular server for a received request so as to balance load amongst the servers providing redundant resources (service map, Col. 10, lines 40-67).

As to claim 19, in addition to the above discussion, San Andres discloses a gateway included service map as the intermediary server, and a queue data structure with the intermediary server, as recited in the claim.

5.   As claims 3, 4, 6 and 14-15, San Andres discloses the system includes a plurality of servers for providing online service over the Internet, and includes the MEDIAVIEW (Col. 9, lines 32-52; Col. 18, lines 10-15; Col. 21, lines 24-32), which infer web servers and client browser.

6.   As to claim 5, San Andres discloses each of the plurality of servers is associated with a network address and the gateway machine comprises a web server having a network address

distinct from the plurality of servers (Col. 10, lines 42-52, each server have a unique

identification gateway is on a network address is inherent).

7.   As to claims 7 and 16, San Andres discloses the system includes means for monitoring

workload (Col. 7, lines 48-56), i.e., means for monitoring quality of service between the gateway

and each of the servers.

8.   As to claim 8, San Andres discloses the means for monitoring quality of service

implemented within the gateway machine (service map, session map, MCP locator and redirector

for monitoring and redirecting service request resides in gateway, Fig. 1, 4-5, Col. 10, line 53 -

Col. 13, line 48).

9.   As to claims 9 and 17, San Andres discloses means for selecting from amongst the

servers providing redundant services using the relative quality of service between the servers the

system providing services are based on load of server, (service map, session map, MCP locator

and redirector for monitoring and redirecting service request resides in gateway, Fig. 1, 4-5, Col.

7, lines 32-56; Col. 10, line 53 - Col. 13, line 48).

10.   As to claim 10, San Andres discloses means for allocating an additional server with

redundant services in response to the quality of service falling below a pre-selected level (load is

allocated based on threshold comparison, Col. 7, lines 47-56; redirect, wherein the gateway

machine is configured to establish a new communication channel through the network with the

additional server (Gateway selecting server and establishing channel connection, Col. 8, lines 13-

21).

11.   Claims 11 and 18, San Andres discloses communication between clients 102 and servers

120 is accomplished through gateway(s) 126, a means for generating a response to the client
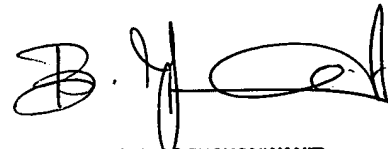
request using services provided to the gateway machine by the servers is required, thereby it is inherent.

12.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bunjob Jaroenchonwanit whose telephone number is (703) 305-9673. The examiner can normally be reached on 8:00-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800.

/bj
10/6/03

BUNJOB JAROENCHONWANIT
PRIMARY EXAMINER